

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWP. No. 119 of 2008.

Date of Decision : April 30, 2010.

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| State of H.P and another. | | Petitioners. |
| | Vs. | |
| Tehlu Ram. | | Respondent. |

Coram:

Hon'ble Mr. Justice Dev Darshan Sud, Judge.

Hon'ble Mr.Justice Kuldip Singh, Judge.

Whether approved for reporting?¹ No.

For the petitioners. Mr. P.K.Sharma, Addl. Advocate General.

For the respondent : Mr.G.R.Palsra, Advocate with
Ms.Leena Guleria, Advocate.

Dev Darshan Sud, J(Oral).

It is undisputed before us by the parties that this case is covered by the decision of this Court in CWP.No. 180 of 2001 titled State of H. P. Vs. Sarab Dayal decided on 19th July, 2007. Subsequently the Division Bench of this Court in CWP No. 1808 of 2007 which was disposed of along with other writ petitions by a common order on 4th March, 2010 titled State of H.P. and others Vs.Chetru, held as follows:

“Since common question of law and fact is involved in these Writ Petitions, they are being disposed of by a common order.

The issue raised in these Writ Petitions pertains to the question whether 50% of the daily waged service rendered by the original applicants can be counted as qualifying service for the purpose of pension.

We find that this issue is squarely covered in favour of the original applicants by several judgments of this Court and the one reported as State of Himachal Pradesh and others vs. Sarab Dayal, Latest HLJ 2007(1) HP 1292.

¹ Whether reports of Local Papers may be allowed to see the judgment?yes

The learned Senior Additional Advocate General submits that the State has pursued the matter before the Supreme Court and the matter is now pending before the Supreme Court. But we find that in the Special Leave to Appeal (Civil) No. 362 of 2008 filed against the judgment of this Court in CWP No. 180 of 2001, the Hon'ble Supreme Court has directed the State to comply with the impugned order. However, the matter is still pending before the Supreme Court. Since the order has been implemented in the case of several applicants, of course, subject to the final outcome of the matter pending before the Supreme Court, it is only appropriate that the same course of action is followed in the case of original applicants in these cases also. Therefore, these Writ Petitions are disposed of directing the State to extend the benefit of 50% of the daily waged service rendered by the original Applicants as qualifying service for the purpose of pension, however, making it clear that the implementation of the order is subject to the outcome of the Special Leave to Appeal (Civil) No. 362 of 2008 and the other connected matters.

Some of the learned counsel appearing for the original applicants submit that in some cases the original applicant(s) had died. But death will not take away the benefit otherwise admissible to the original applicant(s) and needless to point out that the benefit will be available to the legal heirs of such original applicants.

The needful shall be done within a period of one month from the date of production of a copy of this judgment."

We accordingly dispose of this writ petition and direct that it shall abide by the decision of this Court judgment passed in CWP No.1808 of 2007 along with other connected writ petitions decided on 4th March, 2010 titled State of Himachal Pradesh and others Vs. Chetru, a copy whereof be placed on the record of this case also. This writ petition stands disposed of.

**(Dev Darshan Sud),
Judge.**

**(Kuldip Singh),
Judge.**

April 30,2010(R)

